

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Deshaune D. Darling,

Plaintiff,

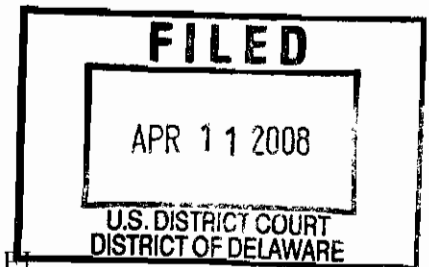
v.

Correctional Medical Services,

Thomas Carroll, David Pierce, et al,

Defendant.

Civil Action No. 07-683 GMS



MOTION FOR APPOINTMENT OF COUNSEL

RD scanned

Plaintiff Deshaune D. Darling pursuant to 28 U.S.C. § 1915.

request this court to appoint counsel to represent petitioner in the above-entitled action for the following reasons:

In deciding whether to appoint counsel for an indigent litigant, the District Court of Delaware articulated standards for evaluating a Motion for Appointment of Counsel filed by a *pro se* plaintiff. See Green v. FCM, 430 F. Supp.2d 383, 387 n. 3 (D. Del. 2006) (citing Tabron v. Grace, 6 F.3d 147 (3rd Cir. 1993) and Parhan v. Johnson, 126 F.3d 454 (3rd Cir. 1997)). Initially, the Court must examine the merits of a plaintiff's claim to determine whether it has some arguable merit in fact and law. See Parhan, 126 F.3d at 457 (citing Tabron, 6 F.3d 157); accord Maclin v. Freake, 65 F.2d 885, 887 (7th Cir. 1981) (per curiam) (cited with approval in Tabron and Parhan). Only if the Court is satisfied that the claim is factually and legally meritorious, should it then examine the following factors: (1) the plaintiff's ability to present his own case; (2) the complexity of the legal issues presented; (3) the extensiveness of the factual

investigation necessary to effectively litigate the case and the plaintiff's ability to pursue such an investigation; (4) the degree to which the case may turn on credibility determination; (5) whether the testimony of expert witness will be necessary; and (6) whether the plaintiff can attain and afford counsel on his own behalf.

In support of this motion, the plaintiff avers the following:

1. The plaintiff's does not have the ability to present his own case.
2. The plaintiff is unskilled in the law and the complexity of the legal issues presented in the complaint is beyond plaintiff's abilities to pursue an effective investigation.
3. The plaintiff avers that the case may turn on credibility determination.
4. The plaintiff avers that testimony of expert witnesses will be necessary.
5. The plaintiff can not attain and afford counsel on his own behalf.
6. Appointment of counsel would serve "the best interest of justice" in this case.
7. The plaintiff's allegations if proved, clearly would establish a constitutional violation because inadequate medical attention caused unnecessary and constant infliction of pain, which constitutes cruel and unusual punishment forbidden by the Eighth Amendment "Whitley v. Albers 475 U.S. 312, 319. Furthermore the plaintiff claims that the facts and evidence of the case will prove that C.M.S. and prison officials failed to attend to his serious medical need consistent with human decency which demonstrated deliberate indifference Estelle v. Gamble '129 U.S. 97, 104

For the foregoing reasons, the plaintiff has provided the court with sufficient foundation for the court to appoint counsel in this case.

Dated: 4-9-08

Delaware D. Darling

Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

_____)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
)	
_____, et al.)	
)	
Defendant.)	

ORDER

IT IS HEREBY ORDERED, THIS _____ DAY OF _____,
200__, THAT THE ATTACHED MOTION FOR APPOINTMENT OF COUNSEL HAS BEEN
READ AND CONSIDERED. IT IS ORDERED THAT THE MOTION IS
HEREBY _____.

United States District Court Judge

IM Deshane D. Darling
SBI# 22986 UNIT V
DELAWARE CORRECTIONAL CENTER
1181 PADDOCK ROAD
SMYRNA, DELAWARE 19977

Legal Mark Club



Office of the Clerk
United States District Court
899 N. King St. Lockbox 18
Wilmington, DE 19801-3570

U.S.M.S.
RAY

1980130517 0012

